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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW JERSEY

In Re:

Bed Bath & Beyond Inc., *et al.*,

Debtors.

Case No. 23-13359 (VFP)

Chapter 11

(Jointly Administered)

[Relates to Docket No. 79]

MARICOPA COUNTY TREASURER'S OBJECTION TO DEBTORS' MOTION FOR ENTRY AN ORDER (I) AUTHORIZING (A) REJECTION OF CERTAIN UNEXPIRED LEASES AND (B) ABANDONMENT OF ANY PERSONAL PROPERTY, EFFECTIVE AS OF THE REJECTION DATE AND (II) GRANTING RELATED RELIEF

Maricopa County Treasurer ("MCT"), a secured tax lien creditor, by and through its undersigned counsel, hereby objects to the *Debtors' Motion for Entry of an Order (I) Authorizing (A) Rejection of Certain Unexpired Leases and (B) Abandonment of Any Personal Property, Effective as of the Rejection Date and (II) Granting Related Relief*. (DE 79) (the "Motion"). **MCT was not provided notice of the Motion or of any final hearing.** MCT does not object to the rejection of the leases *per se*, but objects because Debtors' Motion seeks to abandon personal property free and clear of the MCT tax liens.

1 **1. MCT's Claims:**

2 On May 11, 2023, MCT filed a Secured Tax Proof of Claim (the "MCT Claim") in
3 the case of Bed Bath & Beyond Inc. in the estimated amount of \$35,478.08 representing
4 the estimated 2023 personal property taxes on Debtors' property located in Maricopa
5 County, Arizona. Interest accrues, or will accrue, at the statutory rate of 16% per year
6 simple, if not timely paid, until paid in full. See 11 U.S.C. § 511 and Arizona Revised
7 Statutes ("A.R.S.") § 42-18053.

8 On May 11, 2023, MCT filed a Secured Tax Proof of Claim (the "MCT Claim") in
9 the case of Buy Buy Baby, Inc. in the estimated amount of \$4,947.83 representing the
10 estimated 2023 personal property taxes on Debtors' property located in Maricopa County,
11 Arizona. Interest accrues, or will accrue, at the statutory rate of 16% per year simple, if
12 not timely paid, until paid in full. See 11 U.S.C. § 511 and A.R.S. § 42-18053.

13 **2. Objection:**

14 MCT objects to the Motion because it seeks to abandon personal property free
15 and clear of the MCT tax liens. The Bankruptcy Code authorizes the Debtors to abandon
16 the remaining personal property, but does not authorize the abandonment of the
17 remaining personal property free and clear of any tax liens, claims, interests or other
18 encumbrances. The MCT tax liens, claims, interests or encumbrances on the personal
19 property should remain attached to any abandoned personal property until the taxes and
20 interest are paid in full. As set forth above, the personal property tax liens are "prior and
21 superior to any other liens of every kind and description regardless of when another lien
22 attached." A.R.S. § 42-19106 and 42-17153. Further, "[i]t is unlawful for the owner, a
23 lienholder, a conditional vendor or any other person to knowingly sell or transfer personal
24 property or remove it from its location until the taxes on the property are paid." A.R.S. §

42-19107. The personal property tax liens on the property to be sold are not discharged until the taxes are paid or the title to the property vests in a purchaser of the property for taxes. A.R.S. § 42-19106 and 42-17153. Accordingly, the liens for personal property taxes encumbering the property cannot be removed until the personal property taxes and interest are paid in full.

WHEREFORE, Maricopa County objects to the Motion unless the order provides that the personal property is not abandoned free and clear of the MCT tax liens and the landlord, or any other creditor, cannot use or dispose of the personal property without liability for payment of the related taxes.

RESPECTFULLY SUBMITTED this 11th day of May, 2023.

RACHEL H. MITCHELL
MARICOPA COUNTY ATTORNEY

BY: 
PETER MUTHIG
Deputy County Attorney
Attorney for Maricopa County Treasurer

ORIGINAL of the foregoing filed by overnight mail
this 11th day of May, 2023, with:

Clerk, United States Bankruptcy Court
District of New Jersey
MLK Jr Federal Building
50 Walnut Street
Newark, NJ 07102

COPY of the foregoing mailed/e-mailed,
this 11th day of May, 2023, to:

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Case 23-13359-VFP Doc 311 Filed 05/12/23 Entered 05/12/23 11:18
Document 1800-46 Page 5 of 5

FedEx NEW Package
Express US Airbill

FedEx
Tracking
Number

1 From **STU/2023** 8083 7155 2119

Date

Sender's
Name

Company

Phone

Address

City

2 Your Internal Billing Reference

3 To

Recipient's
Name

Company

Address

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Address

Use this line for the HOLD location address or for continuation of your shipping address.

City

State

ZIP

Drop/Pick/Sale/Room

HOLD/Weekday
FedEx location address
REQUIRED. NOT available for
FedEx First Overnight.

HOLD/Saturday
FedEx location address
REQUIRED. Available ONLY for
FedEx Priority Overnight and
FedEx 2Day® services.

State

ZIP

8083 7155 2119

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Form
ID No. 0200

4 Express Package Service
NOTE: Service order has changed. Please select carefully.

Next Business Day

☐ FedEx First Overnight
Earliest next business morning delivery to select
destinations. Friday shipments will be delivered on
Monday unless SATURDAY Delivery is selected.

☐ FedEx Priority Overnight
Next business morning delivery. Shipments will be
delivered on Monday unless SATURDAY Delivery
is selected.

☐ FedEx Standard Overnight
Next business afternoon delivery. Saturday Delivery NOT available.

Packages up to 150 lbs.
For packages over 150 lbs., see the new
FedEx Express Freight (FC) tag.

2 or 3 Business Days

☐ FedEx 2Day A.M.
Second business morning.
Saturday Delivery NOT available.

☐ FedEx 2Day
Second business afternoon. Thursday shipments
delivered on Monday unless SATURDAY
Delivery is selected.

☐ FedEx Express Saver
Third business day.
Saturday Delivery NOT available.

5 Packaging

*Declared value limit \$500

☐ FedEx Envelope*

☐ FedEx Pak*

☐ FedEx Box

☐ FedEx Tube

☐ Other

6 Special Handling and Delivery Signature Options

☐ SATURDAY Delivery
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

☐ No Signature Required
Package may be left without
obtaining a signature for delivery.

☐ Direct Signature
Signature required at recipient's address.
Sign for delivery. For agencies.

☐ Indirect Signature
If no one is available at recipient's
address, someone at a neighboring
residential address may sign for delivery. For
residential deliveries only. For agencies.

Does this shipment
contain a signature for delivery?

☒ No ☐ Yes

☐ Dangerous or
hazardous material
or placard

☐ Cargo Aircraft Only

☐ Dry Ice
Dry Ice 3 UN 1845

☐ Obtain receipt
At delivery. ☐ No.

☐ Third Party ☐ Credit Card ☐ Cash/Check

☐ Credit Card Auth.

Total Pkgs. eight lbs.

*Our liability is limited to US\$500 unless you declare a higher value. See the current FedEx Service Guide for details.

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